

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1131

Introduced by Assembly Member Feuer

February 27, 2009

~~An act to amend Section 25244.17.1 of the Health and Safety Code, relating to hazardous waste. An act to amend Sections 25244.14, 25244.15, 25244.15.1, 25244.17.1, 25404, 25404.1, 25501, 25502, 25503, 25503.3, 25503.5, 25503.9, 25505.2, 25509, 25517.5, 25531.2, 25532, 25533, 25534.05, 25539, 25543, and 25543.1 of, and to add Section 25501.5 to, the Health and Safety Code, and to amend Section 42100 of the Public Resources Code, relating to hazardous materials.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1131, as amended, Feuer. ~~Hazardous waste: source reduction. Hazardous materials: green chemistry and accidental releases.~~

(1) Existing law requires the Department of Toxic Substances Control to establish programs for hazardous waste source reduction.

This bill would additionally require the department to establish programs for life cycle toxic reduction to reduce the use, generation, release, or disposal of a chemical of concern as identified by the department during a product life cycle.

(2) Existing law imposes certain duties and responsibilities on the former Office of Emergency Services related to hazardous materials release response plans and inventory, and risk management plans required by federal law.

This bill would transfer those duties and responsibilities to the Department of Toxic Substances Control. The bill would authorize the California Emergency Management Agency to develop materials, such

as guidelines and informational pamphlets, to assist businesses and unified program agencies to fulfill their obligations concerning spill and release reporting, area plans, and the consolidated contingency plans.

(3) Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program. Existing law requires the unified program be developed in close consultation with specified officials.

This bill would additionally require the unified program to be developed and implemented in close consultation with the Director of the Office of Environmental Health Hazard Assessment. The bill would require the secretary to oversee and coordinate the development of regulations and policies to ensure a consolidated, coordinated, and consistent unified program.

~~The Hazardous Waste Source Reduction and Management Review Act of 1989, among other things, requires the Department of Toxic Substances Control to establish a technical assistance and outreach program to promote implementation of model source reduction measures in priority industry categories. The act requires the department, every two years in a specified work plan, and in consultation with the California Source Reduction Advisory Committee, to select at least 2 priority categories of generators by SIC Code, as defined. For each selected priority industry category, the department is required to implement a cooperative source reduction technical assistance and outreach program to include specified elements.~~

~~This bill would increase the minimum number of priority categories the department is required to select every 2 years to 3.~~

~~The bill would include a statement of legislative intent to enact legislation regarding expanding the hazardous waste source reduction program and encouraging the availability of safe, nontoxic consumer products by developing standards to allow those products to be certified as such by the state.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25244.14 of the Health and Safety Code
- 2 is amended to read:

25244.14. For purposes of this article, the following definitions apply:

(a) “Advisory committee” means the California Source Reduction Advisory Committee established pursuant to Section 25244.15.1.

(b) “Appropriate local agency” means a county, city, or regional association that has adopted a hazardous waste management plan pursuant to Article 3.5 (commencing with Section 25135).

(c) “Chemical of concern” means a substance identified by the department pursuant to regulations adopted in accordance with Section 25252 as a chemical of concern.

~~(e)~~

(d) “Hazardous waste management approaches” means approaches, methods, and techniques of managing the generation and handling of hazardous waste, including source reduction, recycling, and the treatment of hazardous waste.

~~(d)~~

(e) “Hazardous waste management performance report” or “report” means the report required by subdivision (b) of Section 25244.20 to document and evaluate the results of hazardous waste management practices.

(f) “Life cycle toxics reduction” means an action that causes a net reduction in the use, generation, release, or disposal of a chemical of concern during a product life cycle, including, but not limited to, any of the following actions:

(1) Input substitution by replacing a chemical of concern used in a production unit with a nontoxic or less toxic substance.

(2) Produce reformulation by substituting an existing end product with a new end product that is nontoxic or less toxic upon use, release, or disposal.

(3) Production unit redesign or modification by developing and using production units of a different design than those currently used.

(4) Production unit modernization by upgrading or replacing existing production unit equipment and methods with other equipment and methods based on the same production unit.

(5) Improved operation and maintenance of production unit equipment and methods by modifying or adding to existing equipment or methods, including, but not limited to, techniques such as improved housekeeping practices, system adjustments,

1 *product and process inspections, or production unit control*
2 *equipment or methods.*

3 (6) *Recycling, reuse, or extended use of a chemical of concern*
4 *by using equipment or methods that become an integral part of*
5 *the production unit, including, but not limited to, filtration and*
6 *other closed loop methods.*

7 (g) *“Product life cycle” includes, but is not limited to, all of the*
8 *following stages of development and retirement of a product:*

9 (1) *Acquisition of raw materials.*

10 (2) *Bulk material processing.*

11 (3) *Engineering materials production.*

12 (4) *Manufacture.*

13 (5) *Assembly.*

14 (6) *Distribution.*

15 (7) *Use.*

16 (8) *Retirement.*

17 (9) *Disposal of residuals produced in each stage.*

18 ~~(e) —~~

19 (h) (1) *“Source reduction” means one of the following:*

20 (A) *Any action that causes a net reduction in the generation of*
21 *hazardous waste.*

22 (B) *Any action taken before the hazardous waste is generated*
23 *that results in a lessening of the properties which cause it to be*
24 *classified as a hazardous waste.*

25 (2) *“Source reduction” includes, but is not limited to, all of the*
26 *following:*

27 (A) *“Input change,” which means a change in raw materials or*
28 *feedstocks used in a production process or operation so as to*
29 *reduce, avoid, or eliminate the generation of hazardous waste.*

30 (B) *“Operational improvement,” which means improved site*
31 *management so as to reduce, avoid, or eliminate the generation of*
32 *hazardous waste.*

33 (C) *“Production process change,” which means a change in a*
34 *process, method, or technique which is used to produce a product*
35 *or a desired result, including the return of materials or their*
36 *components, for reuse within the existing processes or operations,*
37 *so as to reduce, avoid, or eliminate the generation of hazardous*
38 *waste.*

39 (D) *“Product reformulation,” which means changes in design,*
40 *composition, or specifications of end products, including product*

1 substitution, so as to reduce, avoid, or eliminate the generation of
2 hazardous waste.

3 (3) “Source reduction” does not include any of the following:

4 (A) Actions taken after a hazardous waste is generated.

5 (B) Actions that merely concentrate the constituents of a
6 hazardous waste to reduce its volume or that dilute the hazardous
7 waste to reduce its hazardous characteristics.

8 (C) Actions that merely shift hazardous wastes from one
9 environmental medium to another environmental medium.

10 (D) Treatment.

11 ~~(f)~~—

12 (i) “Source reduction evaluation review and plan” or “review
13 and plan” means a review conducted by the generator of the
14 processes, operations, and procedures in use at a generator’s site,
15 in accordance with the format established by the department
16 pursuant to subdivision (a) of Section 25244.16, and that does both
17 of the following:

18 (1) Determines any alternatives to, or modifications of, the
19 generator’s processes, operations, and procedures that may be
20 implemented to reduce the amount of hazardous waste generated.

21 (2) Includes a plan to document and implement source reduction
22 measures for the hazardous wastes specified in paragraph (1) that
23 are technically feasible and economically practicable for the
24 generator, including a reasonable implementation schedule.

25 ~~(g)~~—

26 (j) “SIC Code” has the same meaning as defined in Section
27 25501.

28 ~~(h)~~—

29 (k) “Hazardous waste,” “person,” “recycle,” and “treatment”
30 have the same meaning as defined in Article 2 (commencing with
31 Section 25110).

32 *SEC. 2. Section 25244.15 of the Health and Safety Code is*
33 *amended to read:*

34 25244.15. (a) The department shall establish a program for
35 hazardous waste source reduction *and life cycle toxics reduction*
36 pursuant to this article.

37 (b) The department shall coordinate the activities of all state
38 agencies with responsibilities and duties relating to hazardous
39 waste, *pollution prevention, and green chemistry*, and shall promote
40 coordinated efforts to encourage *life cycle toxics reduction and*

1 the reduction of hazardous waste. Coordination between the
2 program and other relevant state agencies and programs shall, to
3 the fullest extent possible, include joint planning processes and
4 joint research and studies.

5 (c) The department shall adopt regulations to carry out this
6 article.

7 (d) (1) Except as provided in paragraph (3), this article applies
8 only to generators who, by site, routinely generate, through ongoing
9 processes and operations, more than 12,000 kilograms of hazardous
10 waste in a calendar year, or more than 12 kilograms of extremely
11 hazardous waste in a calendar year.

12 (2) The department shall adopt regulations to establish
13 procedures for exempting generators from the requirements of this
14 article where the department determines that no source reduction
15 *or life cycle toxics reduction* opportunities exist for the generator.

16 (3) Notwithstanding paragraph (1), this article does not apply
17 to any generator whose hazardous waste generating activity consists
18 solely of receiving offsite hazardous wastes and generating
19 residuals from the processing of those hazardous wastes.

20 *SEC. 3. Section 25244.15.1 of the Health and Safety Code is*
21 *amended to read:*

22 25244.15.1. (a) The California Source Reduction Advisory
23 Committee is hereby created and consists of the following
24 members:

25 (1) The Executive Director of the State Air Resources Board,
26 as an ex officio member.

27 (2) The Executive Director of the State Water Resources Control
28 Board, as an ex officio member.

29 (3) The Director of Toxic Substances Control, as an ex officio
30 member.

31 (4) The Executive Director of the Integrated Waste Management
32 Board, as an ex officio member.

33 (5) The Chairperson of the California Environmental Policy
34 Council established pursuant to Section 71017 of the Public
35 Resources Code, as an ex officio member.

36 (6) Ten public members with experience in source reduction as
37 appointed by the department. These public members shall include
38 all of the following:

39 (A) Two representatives of local governments from different
40 regions of the state.

1 (B) One representative of a publicly owned treatment works.

2 (C) Two representatives of industry.

3 (D) One representative of small business.

4 (E) One representative of organized labor.

5 (F) Two representatives of statewide environmental advocacy
6 organizations.

7 (G) One representative of a statewide public health advocacy
8 organization.

9 (7) The department may appoint up to two additional public
10 members with experience in source reduction and detailed
11 knowledge of one of the priority categories of generators selected
12 in accordance with Section 25244.17.1.

13 (b) The advisory committee shall select one member to serve
14 as chairperson.

15 (c) The members of the advisory committee shall serve without
16 compensation, but each member, other than officials of the state,
17 shall be reimbursed for all reasonable expenses incurred in the
18 performance of his or her duties, as authorized by the department.

19 (d) The advisory committee shall meet at least semiannually to
20 provide a public forum for discussion and deliberation on matters
21 pertaining to the implementation of this chapter.

22 (e) The advisory committee's responsibilities shall include, but
23 not be limited to, the following:

24 (1) Reviewing and providing consultation and guidance in the
25 preparation of the work plan required by Section 25244.22.

26 (2) Evaluating the performance and progress of the department's
27 source reduction *and life cycle toxics reduction* program.

28 (3) Making recommendations to the department concerning
29 program activities and funding priorities, and legislative changes,
30 if needed.

31 (f) The advisory committee established by this section shall be
32 in existence until April 15, 2002, by which date the department
33 shall, in consultation with the advisory committee, evaluate the
34 role and activities of the advisory committee and determine if the
35 committee is beneficial to the implementation of this article. On
36 and after April 15, 2002, the advisory committee shall continue to
37 exist and operate to the extent that the department, in consultation
38 with the advisory committee, determines the advisory committee
39 continues to be beneficial to the operation of the department's
40 source reduction *and life cycle toxics reduction* programs.

1 SEC. 4. *Section 25244.17.1 of the Health and Safety Code is*
2 *amended to read:*

3 25244.17.1. The department shall establish a technical
4 assistance and outreach program to promote implementation of
5 ~~model-source~~ *life cycle toxics* reduction measures in priority
6 industry categories.

7 (a) Every two years, in the work plan required by Section
8 25244.22, the department shall, in consultation with the advisory
9 committee, select at least ~~two~~ *six* priority categories of ~~generators~~
10 ~~industries~~ by SIC Code. At least one selected category of
11 ~~generators industries~~ shall be taken from the list of categories
12 previously selected by the department under Section 25244.18. At
13 least one selected category of ~~generators industries~~ shall be a
14 category that consists primarily of small businesses. *At least one*
15 *selected category of industries shall be a category that consists*
16 *primarily of businesses affected by one or more actions taken by*
17 *the department pursuant to Article 14 (commencing with Section*
18 *25251).*

19 (b) For each selected priority industry category, the department
20 shall implement a cooperative-~~source~~ *life cycle toxics* reduction
21 technical assistance and outreach program to include the following
22 elements:

23 (1) The department shall use available resources, including
24 reports prepared pursuant to paragraph (4) of subdivision (a) of
25 Section 25244.18 and information on-~~source~~ *life cycle toxics*
26 reduction methods from federal, state, ~~and~~ local, *and international*
27 governments and industry associations and industry members, to
28 identify a set of ~~model-source~~ *life cycle toxics* reduction measures
29 for each industry category.

30 (2) The department shall determine, with the assistance of the
31 advisory committee, the most effective technical assistance and
32 outreach methods to promote implementation of the ~~model-source~~
33 *life cycle toxics* reduction measures identified in paragraph (1).

34 (3) The department shall develop a plan and schedule to
35 implement the technical assistance and outreach measures before
36 the next biennial work plan. The measures may include, but are
37 not limited to, all of the following:

38 (A) Holding, presenting at, or cosponsoring workshops,
39 conferences, technology fairs, and other promotional events.

1 (B) Developing and distributing educational materials, such as
2 short descriptions of successful ~~source~~ *life cycle toxics* reduction
3 projects.

4 (C) Developing checklists, training manuals, technical resource
5 manuals and using those resources to train CUPAs, small business
6 development corporations, business environmental assistance
7 centers, and other regional and local government environmental
8 programs.

9 (D) Preparing and distributing resource lists, such as lists of
10 vendors, consultants, or providers of financial assistance for ~~source~~
11 *life cycle toxics* reduction projects.

12 (E) Serving as an information clearinghouse to support telephone
13 and onsite consultations with businesses and local governments.

14 (4) For industry categories that include primarily large or
15 technically complex businesses, the ~~source~~ *life cycle toxics*
16 reduction technical assistance and outreach program shall
17 emphasize activities that involve direct communication between
18 department staff and industry members. For these industry
19 categories, the department shall communicate with representatives
20 of 80 percent of the state's companies in the category. For
21 categories that consist primarily of small businesses, the
22 cooperative ~~source~~ *life cycle toxics* reduction program shall
23 emphasize providing industry-specific training and resources to
24 CUPAs, small business development corporations, business
25 environmental assistance centers, and other regional and local
26 government environmental programs for use in their inspections
27 and other direct communications with businesses.

28 (c) While conducting activities under this section, the department
29 shall coordinate its activities with appropriate industry and
30 professional associations.

31 (d) The department shall coordinate activities under this section
32 with grants made under ~~Sections~~ *Section 25244.5 and 25244.11.5.*

33 *SEC. 5. Section 25404 of the Health and Safety Code is*
34 *amended to read:*

35 25404. (a) For purposes of this chapter, the following terms
36 shall have the following meanings:

37 (1) (A) "Certified Unified Program Agency" or "CUPA" means
38 the agency certified by the secretary to implement the unified
39 program specified in this chapter within a jurisdiction.

1 (B) “Participating Agency” or “PA” means a state or local
2 agency that has a written agreement with the CUPA pursuant to
3 subdivision (d) of Section 25404.3, and is approved by the
4 secretary, to implement or enforce one or more of the unified
5 program elements specified in subdivision (c), in accordance with
6 Sections 25404.1 and 25404.2.

7 (C) “Unified Program Agency” or “UPA” means the CUPA, or
8 its participating agencies to the extent each PA has been designated
9 by the CUPA, pursuant to a written agreement, to implement or
10 enforce a particular unified program element specified in
11 subdivision (c). The UPAs have the responsibility and authority
12 to implement and enforce the requirements listed in subdivision
13 (c), and the regulations adopted to implement the requirements
14 listed in subdivision (c), to the extent provided by Chapter 6.5
15 (commencing with Section 25100), Chapter 6.67 (commencing
16 with Section 25270), Chapter 6.7 (commencing with Section
17 25280), Chapter 6.95 (commencing with Section 25500), and
18 Sections 25404.1 and 25404.2. After a CUPA has been certified
19 by the secretary, the unified program agencies and the state
20 agencies carrying out responsibilities under this chapter shall be
21 the only agencies authorized to enforce the requirements listed in
22 subdivision (c) within the jurisdiction of the CUPA.

23 (2) “Department” means the Department of Toxic Substances
24 Control.

25 (3) “Minor violation” means the failure of a person to comply
26 with any requirement or condition of any applicable law,
27 regulation, permit, information request, order, variance, or other
28 requirement, whether procedural or substantive, of the unified
29 program that the UPA is authorized to implement or enforce
30 pursuant to this chapter, and that does not otherwise include any
31 of the following:

32 (A) A violation that results in injury to persons or property, or
33 that presents a significant threat to human health or the
34 environment.

35 (B) A knowing, willful, or intentional violation.

36 (C) A violation that is a chronic violation, or that is committed
37 by a recalcitrant violator. In determining whether a violation is
38 chronic or a violator is recalcitrant, the UPA shall consider whether
39 there is evidence indicating that the violator has engaged in a

1 pattern of neglect or disregard with respect to applicable regulatory
2 requirements.

3 (D) A violation that results in an emergency response from a
4 public safety agency.

5 (E) A violation that enables the violator to benefit economically
6 from the noncompliance, either by reduced costs or competitive
7 advantage.

8 (F) A class I violation as provided in Section 25117.6.

9 (G) A class II violation committed by a chronic or a recalcitrant
10 violator, as provided in Section 25117.6.

11 (H) A violation that hinders the ability of the UPA to determine
12 compliance with any other applicable local, state, or federal rule,
13 regulation, information request, order, variance, permit, or other
14 requirement.

15 (4) “Secretary” means the Secretary for Environmental
16 Protection.

17 (5) “Unified program facility” means all contiguous land and
18 structures, other appurtenances, and improvements on the land
19 that are subject to the requirements listed in subdivision (c).

20 (6) “Unified program facility permit” means a permit issued
21 pursuant to this chapter. For the purposes of this chapter, a unified
22 program facility permit encompasses the permitting requirements
23 of Section 25284, and any permit or authorization requirements
24 under any local ordinance or regulation relating to the generation
25 or handling of hazardous waste or hazardous materials, but does
26 not encompass the permitting requirements of a local ordinance
27 that incorporates provisions of the Uniform Fire Code or the
28 Uniform Building Code.

29 (b) (1) The secretary shall adopt implementing regulations and
30 implement a unified hazardous waste and hazardous materials
31 management regulatory program, which shall be known as the
32 unified program, after holding an appropriate number of public
33 hearings throughout the state. ~~The~~

34 (2) (A) *The unified program shall be developed and*
35 *implemented in close consultation with the* ~~director,~~ *Director of*
36 *Toxic Substances Control, the Director of Environmental Health*
37 *Hazard Assessment, the* ~~Director of the Office of Emergency~~
38 *Services Secretary of Emergency Management,* the State Fire
39 Marshal, the executive officers and chairpersons of the State Water
40 Resources Control Board and the California regional water quality

1 control boards, the local health officers, local fire services, and
2 other appropriate officers of interested local agencies, and affected
3 businesses and interested members of the public, including
4 environmental organizations.

5 *(B) The secretary shall oversee and coordinate the development*
6 *of regulations and policies by these agencies to ensure a*
7 *consolidated, coordinated, and consistent unified program.*

8 *(3) The secretary shall oversee and coordinate the development*
9 *and implementation of regulations and policies for pollution*
10 *prevention and green chemistry pursuant to Article 14*
11 *(commencing with Section 25251) of Chapter 6.5, in so far as they*
12 *affect the implementation of the unified program.*

13 (c) The unified program shall consolidate the administration of
14 the following requirements, and shall, to the maximum extent
15 feasible within statutory constraints, ensure the coordination and
16 consistency of any regulations adopted pursuant to those
17 requirements:

18 (1) (A) Except as provided in subparagraphs (B) and (C), the
19 requirements of Chapter 6.5 (commencing with Section 25100),
20 and the regulations adopted by the department pursuant thereto,
21 are applicable to all of the following:

22 (i) Hazardous waste generators, persons operating pursuant to
23 a permit-by-rule, conditional authorization, or conditional
24 exemption, pursuant to Chapter 6.5 (commencing with Section
25 25100) or the regulations adopted by the department.

26 (ii) Persons managing perchlorate materials.

27 (iii) Persons subject to Article 10.1 (commencing with Section
28 25211) of Chapter 6.5.

29 (B) The unified program shall not include the requirements of
30 paragraph (3) of subdivision (c) of Section 25200.3, the
31 requirements of Sections 25200.10 and 25200.14, and the authority
32 to issue an order under Sections 25187 and 25187.1, with regard
33 to those portions of a unified program facility that are subject to
34 one of the following:

35 (i) A corrective action order issued by the department pursuant
36 to Section 25187.

37 (ii) An order issued by the department pursuant to Chapter 6.8
38 (commencing with Section 25300) or Chapter 6.85 (commencing
39 with Section 25396).

1 (iii) A remedial action plan approved pursuant to Chapter 6.8
2 (commencing with Section 25300) or Chapter 6.85 (commencing
3 with Section 25396).

4 (iv) A cleanup and abatement order issued by a California
5 regional water quality control board pursuant to Section 13304 of
6 the Water Code, to the extent that the cleanup and abatement order
7 addresses the requirements of the applicable section or sections
8 listed in this subparagraph.

9 (v) Corrective action required under subsection (u) of Section
10 6924 of Title 42 of the United States Code or subsection (h) of
11 Section 6928 of Title 42 of the United States Code.

12 (vi) An environmental assessment pursuant to Section 25200.14
13 or a corrective action pursuant to Section 25200.10 or paragraph
14 (3) of subdivision (c) of Section 25200.3, that is being overseen
15 by the department.

16 (C) The unified program shall not include the requirements of
17 Chapter 6.5 (commencing with Section 25100), and the regulations
18 adopted by the department pursuant thereto, applicable to persons
19 operating transportable treatment units, except that any required
20 notice regarding transportable treatment units shall also be provided
21 to the CUPAs.

22 (2) The requirements of Chapter 6.67 (commencing with Section
23 25270) concerning aboveground storage tanks.

24 (3) (A) Except as provided in subparagraphs (B) and (C), the
25 requirements of Chapter 6.7 (commencing with Section 25280)
26 concerning underground storage tanks and the requirements of any
27 underground storage tank ordinance adopted by a city or county.

28 (B) The unified program may not include the responsibilities
29 assigned to the State Water Resources Control Board pursuant to
30 Section 25297.1.

31 (C) The unified program may not include the corrective action
32 requirements of Sections 25296.10 to 25296.40, inclusive.

33 (4) The requirements of Article 1 (commencing with Section
34 25500) of Chapter 6.95 concerning hazardous material release
35 response plans and inventories.

36 (5) The requirements of Article 2 (commencing with Section
37 25531) of Chapter 6.95, concerning the accidental release
38 prevention program.

39 (6) The requirements of subdivisions (b) and (c) of Section
40 80.103 of the Uniform Fire Code, as adopted by the State Fire

1 Marshal pursuant to Section 13143.9 concerning hazardous material
2 management plans and inventories.

3 (d) To the maximum extent feasible within statutory constraints,
4 the secretary shall consolidate, coordinate, and make consistent
5 these requirements of the unified program with other requirements
6 imposed by other federal, state, regional, or local agencies upon
7 facilities regulated by the unified program.

8 (e) (1) The secretary shall establish standards applicable to
9 CUPAs, participating agencies, state agencies, and businesses
10 specifying the data to be collected and submitted by unified
11 program agencies in administering the programs listed in
12 subdivision (c). Those standards shall incorporate any standard
13 developed under Section 25503.3.

14 (2) (A) No later than January 1, 2010, the secretary shall
15 establish a statewide information management system capable of
16 receiving all data collected by the unified program agencies and
17 reported by regulated businesses pursuant to this subdivision and
18 Section 25504.1, in a manner that is most cost efficient and
19 effective for both the regulated businesses and state and local
20 agencies. The secretary shall prescribe an XML or other compatible
21 Web-based format for the transfer of data from CUPAs and
22 regulated businesses and make all nonconfidential data available
23 on the Internet.

24 (B) The secretary shall establish milestones to measure the
25 implementation of the statewide information management system
26 and shall provide periodic status updates to interested parties.

27 (3) (A) (i) Except as provided in subparagraph (B), in addition
28 to any other funding that becomes available, the secretary shall
29 increase the oversight surcharge provided for in subdivision (b)
30 of Section 25404.5 by an amount necessary to meet the
31 requirements of this subdivision for a period of three years, to
32 establish the statewide information management system, consistent
33 with paragraph (2). The increase in the oversight surcharge shall
34 not exceed twenty-five dollars (\$25) in any one year of the
35 three-year period. The secretary shall thereafter maintain the
36 statewide information management system, funded by the
37 assessment the secretary is authorized to impose pursuant to
38 Section 25404.5.

39 (ii) No less than 75 percent of the additional funding raised
40 pursuant to clause (i) shall be provided to CUPAs and PAs through

grant funds in the amounts determined by the secretary to assist these local agencies in meeting these information management system requirements.

(B) A facility that is owned or operated by the federal government and that is subject to the unified program shall pay the surcharge required by this paragraph to the extent authorized by federal law.

(C) The secretary, or one or more of the boards, departments, or offices within the California Environmental Protection Agency, shall seek available federal funding for purposes of implementing this subdivision.

(4) No later than three years after the statewide information management system is established, each CUPA, PA, and regulated business shall report program data electronically. The secretary shall work with the CUPAs to develop a phased in schedule for the electronic collection and submittal of information to be included in the statewide information management system, giving first priority to information relating to those chemicals determined by the secretary to be of greatest concern. The secretary, in making this determination shall consult with the CUPAs, the Office of Emergency Services, the State Fire Marshal, and the boards, departments, and offices within the California Environmental Protection Agency. The information initially included in the statewide information management system shall include, but is not limited to, the hazardous materials inventory information required to be submitted pursuant to Section 25504.1 for perchlorate materials.

(5) The secretary, in collaboration with the CUPAs, shall provide technical assistance to regulated businesses to comply with the electronic reporting requirements and may expend funds identified in clause (i) of subparagraph (A) of paragraph (3) for that purpose.

SEC. 6. Section 25404.1 of the Health and Safety Code is amended to read:

25404.1. (a) (1) (A) All aspects of the unified program related to the adoption and interpretation of statewide standards and requirements shall be the responsibility of the state agency which is charged with that responsibility under existing law. ~~For~~

(B) *The secretary shall oversee unified program standards and requirements adopted by each state agency to ensure that program*

1 *requirements of coordination, consolidation, and consistency are*
2 *effectively achieved.*

3 *(C) The secretary shall ensure the realignment of program*
4 *requirements of the unified program from the California*
5 *Emergency Management Agency to the Department of Toxic*
6 *Substances Control will include oversight of ongoing program*
7 *development and effective coordination between the California*
8 *Emergency Management Agency's emergency response activities,*
9 *the Office of Environmental Health Hazard Assessment's risk*
10 *management role, and the Department of Toxic Substances*
11 *Control's green chemistry program.*

12 *(D) For underground storage tanks, that the responsible agency*
13 *shall be the State Water Resources Control Board. The California*
14 *regional water quality control boards shall have responsibility for*
15 *the issuance of variances pursuant to subdivision (b) of Section*
16 *25299.4. The Department of Toxic Substances Control shall have*
17 *the sole responsibility for the issuances of variances from the*
18 *requirements of Chapter 6.5 (commencing with Section 25100)*
19 *and the regulations adopted pursuant thereto, for the determination*
20 *of whether or not a waste is hazardous or nonhazardous, for the*
21 *determination of whether or not a person is eligible to be deemed*
22 *to be operating pursuant to a permit-by-rule, conditional*
23 *authorization, or conditional exemption pursuant to Chapter 6.5*
24 *(commencing with Section 25100) or the regulations adopted by*
25 *the department, and for the suspension and revocation of*
26 *permits-by-rule, conditional authorizations, and conditional*
27 *exemptions.*

28 *(2) Except as provided in paragraphs (1) and (3), those aspects*
29 *of the unified program related to the application of statewide*
30 *standards to particular facilities, including the issuance of unified*
31 *program facility permits, the review of reports and plans,*
32 *environmental assessment, compliance and correction, and the*
33 *enforcement of those standards and requirements against particular*
34 *facilities, shall be the responsibility of the unified program*
35 *agencies.*

36 *(3) (A) Except in those jurisdictions for which the UPA has*
37 *been determined by the department, in accordance with regulations*
38 *adopted pursuant to subparagraph (C), to be qualified to implement*
39 *the environmental assessment and removal and remediation*
40 *corrective action aspects of the unified program, the department*

1 shall have sole responsibility and authority under the unified
2 program for all of the following:

3 (i) Implementing and enforcing the requirements of paragraph
4 (3) of subdivision (c) of Section 25200.3 and Sections 25200.10
5 and 25200.14, and the regulations adopted by the department to
6 implement those sections. As a pilot program in up to 10 counties,
7 pending the adoption and implementation of regulations pursuant
8 to subparagraph (C), the department may delegate to the CUPA,
9 through a delegation agreement, responsibility and authority for
10 implementing and enforcing the requirements of Section 25200.14.

11 (ii) The issuance of orders under Section 25187 requiring
12 removal or remedial action.

13 (iii) The issuance of orders under Section 25187.1.

14 (B) Notwithstanding subparagraph (A), a UPA may issue an
15 order under Section 25187 specifying a schedule for compliance
16 or correction and imposing an administrative penalty for any
17 violation of the requirements of Chapter 6.5 (commencing with
18 Section 25100) listed in paragraph (1) of subdivision (c) of Section
19 25404, or the requirements of any permit, rule, regulation, standard
20 or requirement issued or adopted pursuant to the requirements of
21 Chapter 6.5 (commencing with Section 25100) listed in paragraph
22 (1) of subdivision (c) of Section 25404, if one of the following
23 applies:

24 (i) The order does not require removal or remedial action.

25 (ii) The only removal or remedial actions required by the order
26 are those actions determined to be necessary to address an
27 imminent and substantial endangerment based upon a finding by
28 the UPA pursuant to subdivision (f) of Section 25187.

29 (C) The department shall adopt emergency regulations
30 specifying the criteria and procedures for implementing paragraph
31 (3) of subdivision (c) of Section 25200.3 and Sections 25200.10
32 and 25200.14, including criteria and procedures for determining
33 whether or not a unified program agency is qualified to implement
34 the environmental assessment and removal and remediation
35 corrective action portions of the unified program under paragraph
36 (3) of subdivision (c) of Section 25200.3 and Sections 25187,
37 25187.1, 25200.10, and 25200.14. The criteria for determining
38 whether a unified program agency is qualified shall, at a minimum,
39 include consideration of the following factors:

1 (i) Adequacy of the technical expertise possessed by the unified
2 program agency.

3 (ii) Adequacy of staff resources.

4 (iii) Adequacy of budget resources and funding mechanisms.

5 (iv) Training requirements.

6 (v) Past performance in implementing and enforcing
7 requirements related to environmental assessments, and removal
8 and remediation corrective actions.

9 (vi) Recordkeeping and accounting systems.

10 (D) The regulations adopted by the department pursuant to
11 subparagraph (C) shall include provisions to ensure coordinated
12 and consistent application of paragraph (3) of subdivision (c) of
13 Section 25200.3 and Sections 25187, 25187.1, 25200.10, and
14 25200.14, when both the department and the unified program
15 agency are, or will be, implementing and enforcing the
16 requirements of one or more of these sections at the same facility.

17 (E) For purposes of subparagraph (D), “facility” means the
18 entire site that is under the control of the owner or operator.

19 (F) If the department is designated as a unified program agency,
20 the department is deemed qualified to implement all of the
21 following:

22 (i) The environmental assessment, removal and remedial action,
23 and corrective action aspects of the unified program.

24 (ii) Paragraph (3) of subdivision (c) of Section 25300.3, Sections
25 25200.10, 25200.14, 25187, and 25287.1, and the regulations
26 adopted by the department to implement those provisions.

27 (b) (1) On or before January 1, 1996, each county shall apply
28 to the secretary to be certified as a unified program agency to
29 implement the unified program within the unincorporated area of
30 the county and within each city in the county, in which area or
31 city, as of January 1, 1996, the city or other local agency has not
32 applied to be the certified unified program agency.

33 (2) (A) Any city or other local agency which, as of December
34 31, 1995, has been designated as an administering agency pursuant
35 to Section 25502, or which has assumed responsibility for the
36 implementation of Chapter 6.7 (commencing with Section 25280)
37 pursuant to Section 25283, may apply to the secretary to become
38 the certified unified program agency to implement the unified
39 program within the jurisdictional boundaries of the city or local
40 agency.

(B) A city or other local agency which, as of December 31, 1995, has not been designated as an administering agency pursuant to Section 25502, or which has not assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, may apply to the secretary to become the certified unified program agency within the jurisdictional boundaries of the city or local agency if it enters into an agreement with the county to become the certified unified program agency within those boundaries. A county shall not refuse to enter into an agreement unless it specifies in writing its reasons for failing to enter into the agreement. However, if the city does not enter into the agreement with the county, within 30 days of receiving a county's reasons for failing to enter into agreement, a city may request that the secretary allow it to apply to be a certified unified program agency and the secretary may, in his or her discretion, approve the request.

(3) A city, county, or other local agency may propose, in its application for certification to the secretary, to allow other public agencies to implement certain elements of the unified program, but the secretary shall accept that proposal only if the secretary makes the findings specified in subdivision (d) of Section 25404.3.

(4) If a city or other local agency which, as of December 31, 1995, has been designated as an administering agency pursuant to Section 25502, or has assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, requests that the county propose in its application for certification to the secretary that the city or local agency implement, within the jurisdictional boundaries of the city or local agency, those elements of the unified program which, as of December 31, 1995, the city or local agency has authority to administer, the county shall grant that request. If such an agency is subsequently removed or withdraws from the unified program, the agency shall not act as an administering agency under Section 25502 or act as a local agency pursuant to Chapter 6.7 (commencing with Section 25280), except as provided in subdivision (c) of Section 25283.

SEC. 7. Section 25501 of the Health and Safety Code is amended to read:

25501. Unless the context indicates otherwise, the following definitions govern the construction of this chapter:

1 (a) “Administering agency” means the local agency authorized,
2 pursuant to Section 25502, to implement and enforce this chapter.

3 (b) “Agricultural handler” means an entity identified in
4 paragraph (5) of subdivision (c) of Section 25503.5.

5 (c) “Area plan” means a plan established pursuant to Section
6 25503 by an administering agency for emergency response to a
7 release or threatened release of a hazardous material within a city
8 or county.

9 (d) “Business” means an employer, self-employed individual,
10 trust, firm, joint stock company, corporation, partnership, or
11 association. For purposes of this chapter, “business” includes a
12 business organized for profit and a nonprofit business.

13 (e) “Business plan” means a separate plan for each facility, site,
14 or branch of a business that meets the requirements of Section
15 25504.

16 (f) “Certification statement” means a statement signed by the
17 business owner, operator, or officially designated representative
18 that attests to all of the following:

19 (1) The information contained in the annual inventory form
20 most recently submitted to the administering agency is complete,
21 accurate, and up to date.

22 (2) There has been no change in the quantity of any hazardous
23 material as reported in the most recently submitted annual
24 inventory form.

25 (3) No hazardous materials subject to the inventory requirements
26 of this chapter are being handled that are not listed on the most
27 recently submitted annual inventory form.

28 (4) The most recently submitted annual inventory form contains
29 the information required by Section 11022 of Title 42 of the United
30 States Code.

31 (g) (1) “Certified Unified Program Agency” or “CUPA” means
32 the agency certified by the secretary to implement the unified
33 program specified in Chapter 6.11 (commencing with Section
34 25404) within a jurisdiction.

35 (2) “Participating Agency” or “PA” means an agency that has
36 a written agreement with the CUPA pursuant to subdivision (d)
37 of Section 25404.3, and is approved by the secretary, to implement
38 or enforce one or more of the unified program elements specified
39 in paragraphs (4) and (5) of subdivision (c) of Section 25404, in
40 accordance with the provisions of Sections 25404.1 and 25404.2.

(3) “Unified Program Agency” or “UPA” means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes of this chapter, the UPAs have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce only those requirements of this chapter listed in paragraphs (4) and (5) of subdivision (c) of Section 25404. The UPAs also have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce the regulations adopted to implement the requirements of this chapter listed in paragraphs (4) and (5) of subdivision (c) of Section 25404. After a CUPA has been certified by the secretary, the unified program agencies shall be the only local agencies authorized to enforce the requirements of this chapter listed in paragraphs (4) and (5) of subdivision (c) of Section 25404 within the jurisdiction of the CUPA.

(h) “City” includes any city and county.

(i) “Chemical name” means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

(j) “Common name” means any designation or identification, such as a code name, code number, trade name, or brand name, used to identify a substance by other than its chemical name.

(k) “Department” means the Department of Toxic Substances Control and “director” means the Director of Toxic Substances Control.

(l) “Emergency rescue personnel” means any public employee, including, but not limited to, any fireman, firefighter, or emergency rescue personnel, as defined in Section 245.1 of the Penal Code, or personnel of a local EMS agency, as designated pursuant to Section 1797.200, or a poison control center, as defined by Section 1797.97, who responds to any condition caused, in whole or in part, by a hazardous material that jeopardizes, or could jeopardize, public health or safety or the environment.

1 (m) “Handle” means to use, generate, process, produce, package,
2 treat, store, emit, discharge, or dispose of a hazardous material in
3 any fashion.

4 (n) “Handler” means any business that handles a hazardous
5 material.

6 (o) “Hazardous material” means any material that, because of
7 its quantity, concentration, or physical or chemical characteristics,
8 poses a significant present or potential hazard to human health and
9 safety or to the environment if released into the workplace or the
10 environment. “Hazardous materials” include, but are not limited
11 to, hazardous substances, hazardous waste, and any material that
12 a handler or the administering agency has a reasonable basis for
13 believing that it would be injurious to the health and safety of
14 persons or harmful to the environment if released into the
15 workplace or the environment.

16 (p) “Hazardous substance” means any substance or chemical
17 product for which one of the following applies:

18 (1) The manufacturer or producer is required to prepare a MSDS
19 for the substance or product pursuant to the Hazardous Substances
20 Information and Training Act (Chapter 2.5 (commencing with
21 Section 6360) of Part 1 of Division 5 of the Labor Code) or
22 pursuant to any applicable federal law or regulation.

23 (2) The substance is listed as a radioactive material in Appendix
24 B of Chapter 1 of Title 10 of the Code of Federal Regulations,
25 maintained and updated by the Nuclear Regulatory Commission.

26 (3) The substances listed pursuant to Title 49 of the Code of
27 Federal Regulations.

28 (4) The materials listed in subdivision (b) of Section 6382 of
29 the Labor Code.

30 (q) “Hazardous waste” means hazardous waste, as defined by
31 Sections 25115, 25117, and 25316.

32 ~~(r) “Office” means the Office of Emergency Services.~~

33 ~~(s)–~~

34 (r) “Release” means any spilling, leaking, pumping, pouring,
35 emitting, emptying, discharging, injecting, escaping, leaching,
36 dumping, or disposing into the environment, unless permitted or
37 authorized by a regulatory agency.

38 ~~(t)–~~

39 (s) “Secretary” means the Secretary for Environmental
40 Protection.

~~(u)~~—

(t) “SIC Code” means the identification number assigned by the Standard Industrial Classification Code to specific types of businesses.

~~(v)~~—

(u) “Threatened release” means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment.

~~(w)~~—

(v) “Trade secret” means trade secrets as defined in subdivision (d) of Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.

~~(x)~~—

(w) “Unified Program Facility” means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements of paragraphs (4) and (5) of subdivision (c) of Section 25404.

SEC. 8. Section 25501.5 is added to the Health and Safety Code, to read:

25501.5. Regulations adopted by the former Office of Emergency Services pursuant to this chapter shall remain in effect until the department amends or revises those regulations.

SEC. 9. Section 25502 of the Health and Safety Code is amended to read:

25502. (a) (1) This chapter, as it pertains to the handling of hazardous material, shall be implemented by one of the following:

(A) If there is a CUPA, the Unified Program Agency.

(B) If there is no CUPA, the agency authorized pursuant to subdivision (f) of Section 25404.3.

(2) The agency responsible for implementing this chapter shall ensure full access to, and the availability of, information submitted under this chapter to emergency rescue personnel and other appropriate governmental entities within its jurisdiction.

(b) (1) If there is no CUPA, a city may, by ordinance or resolution, assume responsibility for the implementation of this chapter and, if so, shall have exclusive jurisdiction within the boundary of the city for the purposes of carrying out this chapter. The ordinance shall require that a person who violates Section

1 25507 shall be subject to the penalties specified in Section 25515.
2 A city that assumes responsibility for implementation of this
3 chapter shall provide notice of its ordinance or resolution to the
4 ~~office department~~ and to the administering agency of its county.
5 It shall also consult with, and coordinate its activities with, the
6 county in which the city is located to avoid duplicating efforts or
7 any misunderstandings regarding the areas, duties, and
8 responsibilities of each administering agency.

9 (2) A city may not assume responsibility for the implementation
10 of this chapter unless it has enacted an implementing ordinance
11 or adopted an implementing resolution not later than 60 days after
12 the ~~office department~~ adopts regulations pursuant to Section 25503,
13 except that a city may enact an implementing ordinance or adopt
14 an implementing resolution after this 60-day period, if it has an
15 agreement with the county to do so. A new city has one year from
16 the date of incorporation to enact an ordinance or adopt a resolution
17 implementing this chapter.

18 (3) The agency responsible for administering and enforcing this
19 chapter shall be the agency so authorized pursuant to subdivision
20 (f) of Section 25404.3.

21 (c) If there is no CUPA, the county and any city that assume
22 responsibility pursuant to subdivision (b) shall designate a
23 department, office, or other agency of the county or city, as the
24 case may be, or the city or county may designate a fire district, as
25 the administering agency responsible for administering and
26 enforcing this chapter. The county and any city that assume
27 responsibility pursuant to subdivision (b) shall notify the office
28 immediately upon making a designation. The agency responsible
29 for administering and enforcing this chapter shall be the agency
30 so authorized pursuant to subdivision (f) of Section 25404.3.

31 *SEC. 10. Section 25503 of the Health and Safety Code is*
32 *amended to read:*

33 ~~25503. (a) Not later than September 1, 1986, the office shall~~
34 ~~adopt, after public hearing and consultation with the office of the~~
35 ~~State Fire Marshal and other appropriate public entities, regulations~~
36 ~~for minimum standards for business plans and area plans. All~~
37 ~~business plans and area plans shall meet the standards adopted by~~
38 ~~the office department.~~

39 (b) The standards for business plans in the regulations adopted
40 pursuant to subdivision (a) shall do all of the following:

1 (1) Set forth minimum requirements of adequacy, and not
2 preclude the imposition of additional or more stringent
3 requirements by local government.

4 (2) Take into consideration and adjust for the size and nature
5 of the business, the proximity of the business to residential areas
6 and other populations, and the nature of the damage potential of
7 its hazardous materials in establishing standards for subdivisions
8 (b) and (c) of Section 25504.

9 (3) Take into account the existence of local area and business
10 plans which meet the requirements of this chapter so as to minimize
11 the duplication of local efforts, consistent with the objectives of
12 this chapter.

13 (4) Define what releases and threatened releases are required
14 to be reported pursuant to Section 25507. ~~The office~~ *department*
15 shall consider the existing federal reporting requirements in
16 determining a definition of reporting releases pursuant to Section
17 25507.

18 (c) An administering agency shall establish an area plan for
19 emergency response to a release or threatened release of a
20 hazardous material within its jurisdiction. An area plan is not a
21 statute, ordinance, or regulation for purposes of Section 669 of the
22 Evidence Code. The standards for area plans in the regulations
23 adopted pursuant to subdivision (a) shall provide for all of the
24 following:

25 (1) Procedures and protocols for emergency rescue personnel,
26 including the safety and health of those personnel.

27 (2) Preemergency planning.

28 (3) Notification and coordination of onsite activities with state,
29 local, and federal agencies, responsible parties, and special districts.

30 (4) Training of appropriate employees.

31 (5) Onsite public safety and information.

32 (6) Required supplies and equipment.

33 (7) Access to emergency response contractors and hazardous
34 waste disposal sites.

35 (8) Incident critique and followup.

36 (9) Requirements for notification to the office of reports made
37 pursuant to Section 25507.

38 (d) The administering agency shall submit a copy of its proposed
39 area plan, within 180 days after adoption of regulations by the
40 office establishing area plan standards, to the office for review.

1 The office shall notify the administering agency as to whether the
2 area plan is adequate and meets the area plan standards. The
3 administering agency shall within 45 days of this notice submit a
4 corrected area plan.

5 The administering agency shall certify to the office every three
6 years that it has conducted a complete review of its area plan and
7 has made any necessary revisions. Any time an administering
8 agency makes any substantial changes to its area plan, it shall
9 forward the changes to the office within 14 days after the changes
10 have been made.

11 (e) An administering agency shall submit to the office, along
12 with its area plan, both of the following:

13 (1) The basic provisions of a plan to conduct onsite inspections
14 of businesses subject to this chapter by either the administering
15 agency or other designated entity. These inspections shall ensure
16 compliance with this chapter and shall identify existing safety
17 hazards that could cause or contribute to a release and, where
18 appropriate, enforce any applicable laws and suggest preventative
19 measures designed to minimize the risk of the release of hazardous
20 material into the workplace or environment. The requirements of
21 this paragraph do not alter or affect the immunity provided a public
22 entity pursuant to Section 818.6 of the Government Code.

23 (2) A plan to institute a data management system which will
24 assist in the efficient access to and utilization of information
25 collected under this chapter. This data management system shall
26 be in operation within two years after the business plans are
27 required to be submitted to the administering agency pursuant to
28 Section 25505.

29 (f) The regulations adopted by the ~~office~~ department pursuant
30 to subdivision (a) shall include an optional model reporting form
31 for business and area plans.

32 *SEC. 11. Section 25503.3 of the Health and Safety Code is*
33 *amended to read:*

34 25503.3. (a) The ~~office~~ department shall, in consultation with
35 the administering agencies, in accordance with Section 25503.1,
36 adopt by regulation a single comprehensive hazardous material
37 reporting form for businesses to submit to administering agencies
38 for purposes of Section 25509. The form shall include a section
39 for additional information that may be requested by the
40 administering agency. The regulations shall also specify criteria

1 for sharing data electronically. Except as provided in subdivisions
2 (b) and (c), after January 1, 1997, each administering agency shall
3 require businesses to use this form annually when complying with
4 Section 25509.

5 (b) (1) Except as provided in paragraph (2), an administering
6 agency may allow a business to submit a form designated by the
7 administering agency for purposes of the inventory required by
8 Section 25509 instead of the single comprehensive hazardous
9 material reporting form adopted pursuant to subdivision (a). Any
10 form designated by an administering agency pursuant to this
11 paragraph shall ensure that all of the information required by
12 Section 25509 is reported. The form shall be developed in
13 consultation with the other agencies within the jurisdiction that
14 are responsible for fire protection, emergency response, and
15 environmental health. If the administering agency permits inventory
16 information to be submitted by electronic means, the format and
17 mode of submittal shall be developed in consultation with those
18 other agencies and, following the adoption of standards for the
19 sharing of electronic data pursuant to subdivision (e) of Section
20 25404, shall be consistent with those standards.

21 (2) If a business chooses to submit the single comprehensive
22 hazardous material reporting form adopted pursuant to subdivision
23 (a), the administering agency shall accept that form.

24 (c) Notwithstanding Section 25509, a business may comply
25 with the annual inventory reporting requirements of this article by
26 submitting a certification statement to the administering agency
27 if both of the following apply:

28 (1) The business has previously filed the single comprehensive
29 hazardous material reporting form required by subdivision (a) or
30 the alternative form designated by the administering agency
31 pursuant to subdivision (b).

32 (2) The business can attest to the statements set forth in
33 paragraphs (1) to (4), inclusive, of subdivision (f) of Section 25501.

34 *SEC. 12. Section 25503.5 of the Health and Safety Code is*
35 *amended to read:*

36 25503.5. (a) (1) A business, except as provided in subdivisions
37 (b), (c), and (d), shall establish and implement a business plan for
38 emergency response to a release or threatened release of a
39 hazardous material in accordance with the standards prescribed in
40 the regulations adopted pursuant to Section 25503, if the business

1 handles a hazardous material or a mixture containing a hazardous
2 material that has a quantity at any one time during the reporting
3 year that is any of the following:

4 (A) Equal to, or greater than, a total weight of 500 pounds or a
5 total volume of 55 gallons.

6 (B) Equal to, or greater than, 200 cubic feet at standard
7 temperature and pressure, if the substance is compressed gas.

8 (C) If the substance is a radioactive material, it is handled in
9 quantities for which an emergency plan is required to be adopted
10 pursuant to Part 30 (commencing with Section 30.1), Part 40
11 (commencing with Section 40.1), or Part 70 (commencing with
12 Section 70.1), of Chapter 1 of Title 10 of the Code of Federal
13 Regulations, or pursuant to any regulations adopted by the state
14 in accordance with those regulations.

15 (2) In meeting the requirements of this subdivision, a business
16 may, if it elects to do so, use the format adopted pursuant to Section
17 25503.4.

18 (b) (1) Oxygen, nitrogen, and nitrous oxide, ordinarily
19 maintained by a physician, dentist, podiatrist, veterinarian, or
20 pharmacist, at his or her office or place of business, stored at each
21 office or place of business in quantities of not more than 1,000
22 cubic feet of each material at any one time, are exempt from this
23 section and from Section 25505. The administering agency may
24 require a one-time inventory of these materials for a fee not to
25 exceed fifty dollars (\$50) to pay for the costs incurred by the
26 agency in processing the inventory forms.

27 (2) (A) Lubricating oil is exempt from this section and Sections
28 25505 and 25509, for a single business facility, if the total volume
29 of each type of lubricating oil handled at that facility does not
30 exceed 55 gallons and the total volume of all types of lubricating
31 oil handled at that facility does not exceed 275 gallons, at any one
32 time.

33 (B) For purposes of this paragraph, “lubricating oil” means any
34 oil intended for use in an internal combustion crankcase, or the
35 transmission, gearbox, differential, or hydraulic system of an
36 automobile, bus, truck, vessel, plane, heavy equipment, or other
37 machinery powered by an internal combustion or electric powered
38 engine. “Lubricating oil” does not include used oil, as defined in
39 subdivision (a) of Section 25250.1.

1 (c) (1) Hazardous material contained solely in a consumer
2 product for direct distribution to, and use by, the general public is
3 exempt from the business plan requirements of this chapter unless
4 the administering agency has found, and has provided notice to
5 the business handling the product, that the handling of certain
6 quantities of the product requires the submission of a business
7 plan, or any portion thereof, in response to public health, safety,
8 or environmental concerns.

9 (2) In addition to the authority specified in paragraph (4), the
10 administering agency may, in exceptional circumstances, following
11 notice and public hearing, exempt from the inventory provisions
12 of this chapter any hazardous substance specified in subdivision
13 (p) of Section 25501 if the administering agency finds that the
14 hazardous substance would not pose a present or potential danger
15 to the environment or to human health and safety if the hazardous
16 substance was released into the environment. The administering
17 agency shall specify in writing the basis for granting any exemption
18 under this paragraph. The administering agency shall send a notice
19 to the ~~office~~ *department* within five days from the effective date
20 of any exemption granted pursuant to this paragraph.

21 (3) The administering agency, upon application by a handler,
22 may exempt the handler, under conditions that the administering
23 agency determines to be proper, from any portion of the business
24 plan, upon a written finding that the exemption would not pose a
25 significant present or potential hazard to human health or safety
26 or to the environment or affect the ability of the administering
27 agency and emergency rescue personnel to effectively respond to
28 the release of a hazardous material, and that there are unusual
29 circumstances justifying the exemption. The administering agency
30 shall specify in writing the basis for any exemption under this
31 paragraph.

32 (4) The administering agency, upon application by a handler,
33 may exempt a hazardous material from the inventory provisions
34 of this chapter upon proof that the material does not pose a
35 significant present or potential hazard to human health and safety
36 or to the environment if released into the workplace or
37 environment. The administering agency shall specify in writing
38 the basis for any exemption under this paragraph.

39 (5) An administering agency shall exempt a business operating
40 a farm for purposes of cultivating the soil or raising or harvesting

1 any agricultural or horticultural commodity from filing the
2 information in the business plan required by subdivisions (b) and
3 (c) of Section 25504 if all of the following requirements are met:

4 (A) The handler annually provides the inventory of information
5 required by Section 25509 to the county agricultural commissioner
6 before January 1 of each year.

7 (B) Each building in which hazardous materials subject to this
8 chapter are stored is posted with signs, in accordance with
9 regulations that the ~~office~~ *department* shall adopt, that provide
10 notice of the storage of any of the following:

11 (i) Pesticides.

12 (ii) Petroleum fuels and oil.

13 (iii) Types of fertilizers.

14 (C) Each county agricultural commissioner forwards the
15 inventory to the administering agency within 30 days from the
16 date of receipt of the inventory.

17 (6) The administering agency shall exempt a business operating
18 an unstaffed remote facility located in an isolated sparsely
19 populated area from the hazardous materials business plan and
20 inventory requirements of this article if the facility is not otherwise
21 subject to the requirements of applicable federal law, and all of
22 the following requirements are met:

23 (A) The types and quantities of materials onsite are limited to
24 one or more of the following:

25 (i) Five hundred standard cubic feet of compressed inert gases
26 (asphyxiation and pressure hazards only).

27 (ii) Five hundred gallons of combustible liquid used as a fuel
28 source.

29 (iii) Two hundred gallons of corrosive liquids used as
30 electrolytes in closed containers.

31 (iv) Five hundred gallons of lubricating and hydraulic fluids.

32 (v) Twelve hundred gallons of flammable gas used as a fuel
33 source.

34 (B) The facility is secured and not accessible to the public.

35 (C) Warning signs are posted and maintained for hazardous
36 materials pursuant to the California Fire Code.

37 (D) A one-time notification and inventory is provided to the
38 administering agency along with a processing fee in lieu of the
39 existing fee. The fee shall not exceed the actual cost of processing

1 the notification and inventory, including a verification inspection
2 if necessary.

3 (E) If the information contained in the initial notification or
4 inventory changes and the time period of the change is longer than
5 30 days, the notification or inventory shall be resubmitted within
6 30 days to the administering agency to reflect the change, along
7 with a processing fee, in lieu of the existing fee, that does not
8 exceed the actual cost of processing the amended notification or
9 inventory, including a verification inspection, if necessary.

10 (F) The administering agency shall forward a copy of the
11 notification and inventory to those agencies that share responsibility
12 for emergency response.

13 (G) The administering agency may require an unstaffed remote
14 facility to submit a hazardous materials business plan and inventory
15 in accordance with this article if the agency finds that special
16 circumstances exist such that development and maintenance of the
17 business plan and inventory is necessary to protect public health
18 and safety and the environment.

19 ~~(d) Onpremise~~ *On premise* use, storage, or both, of propane in
20 an amount not to exceed 300 gallons that is for the sole purpose
21 of heating the employee working areas with that business is exempt
22 from this section, unless the administering agency finds, and
23 provides notice to the business handling the propane, that the
24 handling of the onpremise propane requires the submission of a
25 business plan, or any portion thereof, in response to public health,
26 safety, or environmental concerns.

27 (e) The administering agency shall provide all information
28 obtained from completed inventory forms, upon request, to
29 emergency rescue personnel on a 24-hour basis.

30 (f) The administering agency shall adopt procedures to provide
31 for public input when approving any applications submitted
32 pursuant to paragraph (3) or (4) of subdivision (c).

33 *SEC. 13. Section 25503.9 of the Health and Safety Code is*
34 *amended to read:*

35 ~~25503.9. On or before January 1, 1995, the office~~ *The*
36 *department* shall, in consultation with the administering agencies
37 and the State Fire Marshal, adopt by regulation, a single
38 comprehensive addendum to the hazardous materials reporting
39 form for businesses to submit to administering agencies for
40 purposes of complying with subdivisions (b) and (c) of Section

1 13143.9 and subdivision (b) of Section 25509. The regulations
2 shall also specify criteria for sharing data electronically. Not later
3 than two years after the effective date of those regulations, and
4 annually thereafter, each administering agency shall require
5 businesses to use that addendum when complying with subdivisions
6 (b) and (c) of Section 13143.9 and subdivision (b) of Section
7 25509. The addendum shall be filed with the administering agency,
8 when required by the local fire chief.

9 *SEC. 14. Section 25505.2 of the Health and Safety Code is*
10 *amended to read:*

11 25505.2. (a) Notwithstanding any other provision of this
12 chapter, ~~any~~ a city or county ~~which~~ that, on September 1, 1985,
13 had in effect a local ordinance containing business inventory
14 reporting requirements substantially similar to this chapter, as
15 amended by the act enacting this section, is exempt from having
16 to implement ~~any~~ regulations adopted by the ~~office~~ department
17 concerning business plans upon meeting both of the following
18 requirements:

19 (1) Not later than 90 days after the effective date of the act
20 enacting this section, the city or county enacts an ordinance, or
21 amends its existing ordinance, so that its requirements for business
22 plans are the same as, or more restrictive than, this chapter,
23 including subdivision (a) of Section 25503.5 and Sections 25504
24 and 25509.

25 (2) The ~~office~~ department certifies that the ordinance's
26 requirements are in compliance with paragraph (1) and that the
27 city or county is implementing the ordinance, based upon evidence
28 submitted by the city or county. Applications for exemption shall
29 be filed with the ~~office~~ department not later than 120 days from
30 the effective date of the act enacting this section and the ~~office~~
31 department shall certify or reject the applications within 60 days
32 after receipt. The city or county may file an appeal of the decision
33 of the ~~office~~ with the Director of the Office of Emergency Services
34 department with the Director of Toxic Substances Control, under
35 procedures established by the ~~office~~ department.

36 (b) This section does not exempt ~~any~~ and administering agency
37 from compliance with any other provision of this chapter.

38 (c) ~~Any~~ A business located in a city or county which is exempt
39 from the regulations adopted pursuant to this chapter concerning

1 business plans, shall comply with the ordinance adopted by the
2 city or county.

3 *SEC. 15. Section 25509 of the Health and Safety Code is*
4 *amended to read:*

5 25509. (a) The annual inventory form shall include, but shall
6 not be limited to, information on all of the following which are
7 handled in quantities equal to or greater than the quantities
8 specified in subdivision (a) of Section 25503.5:

9 (1) A listing of the chemical name and common names of every
10 hazardous substance or chemical product handled by the business.

11 (2) The category of waste, including the general chemical and
12 mineral composition of the waste listed by probable maximum
13 and minimum concentrations, of every hazardous waste handled
14 by the business.

15 (3) A listing of the chemical name and common names of every
16 other hazardous material or mixture containing a hazardous
17 material handled by the business which is not otherwise listed
18 pursuant to paragraph (1) or (2).

19 (4) The maximum amount of each hazardous material or mixture
20 containing a hazardous material disclosed in paragraphs (1), (2),
21 and (3) which is handled at any one time by the business over the
22 course of the year.

23 (5) Sufficient information on how and where the hazardous
24 materials disclosed in paragraphs (1), (2), and (3) are handled by
25 the business to allow fire, safety, health, and other appropriate
26 personnel to prepare adequate emergency responses to potential
27 releases of the hazardous materials.

28 (6) The SIC Code number of the business if applicable.

29 (7) The name and phone number of the person representing the
30 business and able to assist emergency personnel in the event of an
31 emergency involving the business during nonbusiness hours.

32 (b) If the local fire chief requires the business to comply with
33 the requirements of subdivision (c) of Section 80.103 of the
34 Uniform Fire Code, as adopted by the State Fire Marshal pursuant
35 to Section 13143.9, the business shall also file the addendum
36 required by Section 25503.9 with the administering agency.

37 (c) The administering agency may permit the reporting of the
38 amount of hazardous material under this section by ranges, rather
39 than a specific amount, as long as those ranges provide the
40 information necessary to meet the needs of emergency rescue

1 personnel, to determine the potential hazard from a release of the
2 materials, and meets the purposes of this chapter.

3 (d) (1) Except as provided in subdivision (e), the annual
4 inventory form required by this section shall also include all
5 inventory information required by Section 11022 of Title 42 of
6 the United States Code, as that section read on January 1, 1989,
7 or as it may be subsequently amended.

8 (2) ~~The office~~ *department* may adopt or amend existing
9 regulations specifying the inventory information required by this
10 subdivision.

11 (e) If, pursuant to federal law or regulation, as it currently exists
12 or as it may be amended, there is a determination that the inventory
13 information required by subdivisions (a) and (c) is substantially
14 equivalent to the inventory information required under the
15 Emergency Planning and Community Right-to-Know Act of 1986
16 (42 U.S.C. Sec. 11001 et seq.), the requirements of subdivision
17 (d) shall not apply.

18 *SEC. 16. Section 25517.5 of the Health and Safety Code is*
19 *amended to read:*

20 25517.5. (a) ~~The office~~ *In fulfilling their responsibilities*
21 *pursuant to this article, the department* may develop materials,
22 such as guidelines and informational pamphlets, to assist businesses
23 *and UPAs to fulfill their obligations under this chapter.* ~~article.~~
24 *The California Emergency Management Agency may develop*
25 *materials, such as guidelines and informational pamphlets, to*
26 *assist businesses and UPAs to fulfill their obligations concerning*
27 *spill and release reporting, area plans, and consolidated*
28 *contingency plans.*

29 ~~(b) The office may adopt emergency regulations for the purpose~~
30 ~~of implementing Sections 25503 and 25509. These emergency~~
31 ~~regulations shall be adopted by the office in accordance with~~
32 ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of Division~~
33 ~~3 of Title 2 of the Government Code, and for purposes of that~~
34 ~~chapter, the adoption of these regulations is an emergency and~~
35 ~~shall be considered by the Office of Administrative Law as~~
36 ~~necessary for the immediate preservation of the public peace,~~
37 ~~health, and safety, or general welfare.~~

38 *(b) To the extent necessary, the department and the California*
39 *Emergency Management Agency shall coordinate the consolidation*
40 *of these materials developed pursuant to this section.*

1 *SEC. 17. Section 25531.2 of the Health and Safety Code is*
2 *amended to read:*

3 25531.2. (a) The Legislature finds and declares that as the
4 state implements the federal accidental release prevention program
5 pursuant to this article, the ~~Office of Emergency Services~~
6 *department* will play a vital and increased role in preventing
7 accidental releases of extremely hazardous substances. The
8 Legislature further finds and declares that as an element of the
9 unified program established pursuant to Chapter 6.11 (commencing
10 with Section 25404), a single fee system surcharge mechanism is
11 established by Section 25404.5 to cover the costs incurred by the
12 ~~office~~ *department* pursuant to this article. It is the intent of the
13 Legislature that this existing authority, together with any federal
14 assistance that may become available to implement the accidental
15 release program, be used to fully fund the activities of the ~~office~~
16 *department* necessary to implement this article.

17 (b) The ~~office~~ *department* shall use any federal assistance
18 received to implement Chapter 6.11 (commencing with Section
19 25404) to offset any fees or charges levied to cover the costs
20 incurred by the ~~office~~ *department* pursuant to this article.

21 *SEC. 18. Section 25532 of the Health and Safety Code is*
22 *amended to read:*

23 25532. Unless the context indicates otherwise, the following
24 definitions govern the construction of this article:

25 (a) “Accidental release” means an unanticipated emission of a
26 regulated substance or other extremely hazardous substance into
27 the ambient air from a stationary source.

28 (b) “Administering agency” means the local agency authorized,
29 pursuant to Section 25502, to implement and enforce this article.

30 (c) “Covered process” means a process that has a regulated
31 substance present in more than a threshold quantity.

32 (d) “Modified stationary source” means an addition or change
33 to a stationary source that qualifies as a “major change,” as defined
34 in Subpart A (commencing with Section 68.1) of Part 68 of
35 Subchapter C of Chapter I of Title 40 of the Code of Federal
36 Regulations. “Modified stationary source” does not include an
37 increase in production up to the source’s existing operational
38 capacity or an increase in production level, up to the production
39 levels authorized in a permit granted pursuant to Section 42300.

(e) “Process” means any activity involving a regulated substance, including any use, storage, manufacturing, handling, or onsite movement of the regulated substance or any combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located so that a regulated substance could be involved in a potential release, shall be considered a single process.

(f) “Qualified person” means a person who is qualified to attest, at a minimum, to the completeness of an RMP.

(g) “Regulated substance” means any substance that is either of the following:

(1) A regulated substance listed in Section 68.130 of Title 40 of the Code of Federal Regulations pursuant to paragraph (3) of subsection (r) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412(r)(3)).

(2) (A) An extremely hazardous substance listed in Appendix A of Part 355 (commencing with Section 355.10) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations that is any of the following:

(i) A gas at standard temperature and pressure.

(ii) A liquid with a vapor pressure at standard temperature and pressure equal to or greater than 10 millimeters mercury.

(iii) A solid that is one of the following:

(I) In solution or in molten form.

(II) In powder form with a particle size less than 100 microns.

(III) Reactive with a National Fire Protection Association rating of 2, 3, or 4.

(iv) A substance that the ~~office~~ *department* determines may pose a regulated substances accident risk pursuant to subclause (II) of clause (i) of subparagraph (B) or pursuant to Section 25543.3.

(B) (i) ~~On or before June 30, 1997, the office~~ *The department* shall, in consultation with the Office of Environmental Health Hazard Assessment, determine which of the extremely hazardous substances listed in Appendix A of Part 355 (commencing with Section 355.10) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations do either of the following:

(I) Meet one or more of the criteria specified in clauses (i), (ii), or (iii) of subparagraph (A).

1 (II) May pose a regulated substances accident risk, in
2 consideration of the factors specified in subdivision (g) of Section
3 25543.1, and, therefore, should remain on the list of regulated
4 substances until completion of the review conducted pursuant to
5 subdivision (a) of Section 25543.3.

6 (ii) The ~~office~~ *department* shall adopt, by regulation, a list of
7 the extremely hazardous substances identified pursuant to clause
8 (i). Extremely hazardous substances placed on the list are regulated
9 substances for the purposes of this article. ~~Until the list is adopted,~~
10 ~~the administering agency shall determine which extremely~~
11 ~~hazardous substances should remain on the list of regulated~~
12 ~~substances pursuant to the standards specified in clause (i).~~

13 (h) “Regulated substances accident risk” means a potential for
14 the accidental release of a regulated substance into the environment
15 that could produce a significant likelihood that persons exposed
16 may suffer acute health effects resulting in significant injury or
17 death.

18 (i) “RMP” means the risk management plan required under Part
19 68 (commencing with Section 68.1) of Subchapter C of Chapter
20 I of Title 40 of the Code of Federal Regulations and by this article.

21 (j) “State threshold quantity” means the quantity of a regulated
22 substance described in subparagraph (A) of paragraph (2) of
23 subdivision (g), as adopted by the ~~office~~ *department* pursuant to
24 Section 25543.1 or 25543.3. ~~Until the office department adopts a~~
25 ~~state threshold quantity for a regulated substance, the state~~
26 ~~threshold quantity shall be the threshold planning quantity for the~~
27 ~~regulated substance specified in Appendix A of Part 355~~
28 ~~(commencing with Section 355.10) of Subchapter J of Chapter I~~
29 ~~of Title 40 of the Code of Federal Regulations.~~

30 (k) “Stationary source” means any stationary source, as defined
31 in Section 68.3 of Title 40 of the Code of Federal Regulations.

32 (l) “Threshold quantity” means the quantity of a regulated
33 substance that is determined to be present at a stationary source
34 in the manner specified in Section 68.115 of Title 40 of the Code
35 of Federal Regulations and that is the lesser of either of the
36 following:

37 (1) The threshold quantity for the regulated substance specified
38 in Section 68.130 of Title 40 of the Code of Federal Regulations.

39 (2) The state threshold quantity.

(m) “Person” means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation, including, but not limited to, a government corporation. “Person” also includes any city, county, city and county, district, commission, the state or any department, agency or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

SEC. 19. Section 25533 of the Health and Safety Code is amended to read:

25533. (a) The program for prevention of accidental releases of regulated substances adopted by the Environmental Protection Agency pursuant to subsection (r) of Section 112 of the Clean Air Act (42 U.S.C. Section 7412(r)), with the additional provisions specified in this article, is the accidental release prevention program for the state. The program shall be implemented by the ~~office~~ department and the appropriate administering agency in each city or county. The state’s implementation of the federal program adopted by the Environmental Protection Agency is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Notwithstanding this article or Division 26 (commencing with Section 39000), the accidental release prevention program submitted by the ~~office~~ department to the Environmental Protection Agency to receive delegation of federal authority to implement the federal program shall include only those regulated substances and threshold quantities specified in the regulations adopted by the Environmental Protection Agency.

(b) The ~~office~~ department and the administering agency shall, to the maximum extent feasible, coordinate implementation of the accidental release prevention program with the federal Chemical Safety and Hazard Investigation Board, the Emergency Response Commission and local emergency planning committees, the unified program elements specified in subdivision (c) of Section 25404, the permitting programs implemented by the air quality management districts and air pollution control districts pursuant to Title V of the Clean Air Act (42 U.S.C. Section 7661 et seq.), and with other agencies, as specified in Section 25404.2.

(c) Section 39602 does not apply to the accidental release prevention program promulgated and implemented pursuant to

1 subsection (r) of Section 112 of the Clean Air Act (42 U.S.C.
2 Section 7412(r)).

3 (d) The administering agency in each jurisdiction is the agency
4 designated to implement and enforce any requirements specified
5 by the Environmental Protection Agency and pertaining to any of
6 the following:

7 (1) Verification of stationary source registration and submission
8 of an RMP or revised RMP.

9 (2) Verification of source submission of stationary certifications
10 or compliance schedules.

11 (3) Mechanisms for ensuring that stationary sources permitted
12 pursuant to Title V of the federal Clean Air Act (42 U.S.C. Section
13 7661 et seq.) are in compliance with the requirements of this article.

14 (e) Notwithstanding subdivision (d) and paragraph (2) of
15 subdivision (a) of Section 25404.1, if, after a public hearing, the
16 ~~office department~~ determines that an administering agency is not
17 taking reasonable actions to enforce the statutory provisions and
18 regulations pertaining to accidental releases of regulated
19 substances, the ~~office department~~ may exercise any of the powers
20 of that administering agency as necessary to implement this article.

21 (f) Notwithstanding any other provision of law, at any time there
22 is no local agency certified to implement in a city or unincorporated
23 portion of a county the unified program established pursuant to
24 Chapter 6.11 (commencing with Section 25404), the ~~office~~
25 ~~department~~ shall do one of the following:

26 (1) Authorize the administering agency which implemented this
27 article in the city or county as of December 31, 1993, to continue
28 to implement this article until such time as a local agency is
29 certified to implement the unified program.

30 (2) Assume authority and responsibility to implement this article
31 in that city or county until a local agency is certified to implement
32 the unified program, in which case all references in this article to
33 the administering agency shall be deemed to refer to the ~~office~~
34 ~~department~~.

35 *SEC. 20. Section 25534.05 of the Health and Safety Code is*
36 *amended to read:*

37 25534.05. (a) The ~~office department~~, in consultation with the
38 administering agencies, industry, the public, and other interested
39 parties, shall adopt regulations, initially as emergency regulations,
40 for all of the following activities:

1 (1) The registration of stationary sources subject to this article.

2 (2) The receipt, review, revision, and audit of RMPs.

3 (3) The resolution of disagreements between stationary source
4 operators and administering agencies.

5 (4) Providing for the public availability of RMPs, consistent
6 with subsection (c) of Section 114 of the federal Clean Air Act
7 (42 U.S.C. Section 7414(c)).

8 (5) The provision of technical assistance to stationary sources
9 subject to the accidental release prevention program.

10 (b) The regulations shall also require each stationary source to
11 work closely with the administering agency in deciding which
12 process hazard review technique is best suited for each stationary
13 source's covered processes.

14 (c) The regulations shall provide that the process hazard analysis
15 shall include the consideration of external events, including seismic
16 events, if applicable.

17 (d) The regulations shall also require each stationary source to
18 work closely with the administering agency in determining for
19 each RMP an appropriate level of detail for the document elements
20 specified in Section 68.150(a) of Title 40 of the Code of Federal
21 Regulations and for documentation of the external events analysis.

22 (e) Administering agencies shall implement the regulations
23 adopted pursuant to this section.

24 *SEC. 21. Section 25539 of the Health and Safety Code is*
25 *amended to read:*

26 25539. The ~~office~~ *department* and each administering agency,
27 in implementing this article, shall, upon request, involve and
28 cooperate with local and state government officials, emergency
29 planning committees, and professional associations.

30 *SEC. 22. Section 25543 of the Health and Safety Code is*
31 *amended to read:*

32 25543. The ~~office~~ *department* shall obtain and maintain state
33 delegation of the federal accidental release prevention program
34 established pursuant to subsection (r) of Section 7412 of Title 42
35 of the United States Code. Substances that are regulated under this
36 article only because they are regulated substances pursuant to
37 paragraph (2) of subdivision (g) of Section 25532 and state
38 threshold quantities shall not be a part of the state program for
39 which delegation of federal implementation and enforcement

1 authority is sought pursuant to this section and subdivision (a) of
2 Section 25533.

3 *SEC. 23. Section 25543.1 of the Health and Safety Code is*
4 *amended to read:*

5 25543.1. (a) ~~Any~~A person may submit a petition to the ~~office~~
6 *department* for the addition of a material to, or for the deletion of
7 a material from, the regulated substances list adopted pursuant to
8 subparagraph (B) of paragraph (2) of subdivision (g) of Section
9 25532 or to revise the existing state threshold quantities that are
10 used as the standards for registration and RMP compliance.

11 (b) A petition submitted pursuant to subdivision (a) shall be
12 accompanied by a submission fee, to be established by the ~~office~~
13 *department*, in consultation with the Office of Environmental
14 Health Hazard Assessment. The fee shall be in an amount that is
15 sufficient to pay for the reasonable costs incurred by the ~~office~~
16 *department* and the Office of Environmental Health Hazard
17 Assessment necessary to carry out this section. Upon the receipt
18 of the petition and fee, the ~~office department~~ shall transmit to the
19 Office of Environmental Health Hazard Assessment funds
20 sufficient to pay for the reasonable costs incurred by the Office of
21 Environmental Health Hazard Assessment to carry out this section.

22 (c) An owner or operator of a stationary source shall not delay
23 implementation of this article in anticipation of a ruling on a
24 petition to delist a regulated substance or to change a state threshold
25 quantity.

26 (d) The ~~office department~~ shall notify administering agencies
27 of petitions for adding or delisting regulated substances or for
28 changing state threshold quantities and shall take comments from
29 administering agencies on the petitions. All comments shall be
30 responded to in writing.

31 (e) The ~~office department~~ shall notify the public of petitions for
32 adding or delisting regulated substances or for changing state
33 threshold quantities and shall take public comment on the petitions.
34 All comments shall be responded to in writing.

35 (f) (1) The ~~office department~~ shall request the Office of
36 Environmental Health Hazard Assessment to review the petitions
37 and make recommendations to the ~~office department~~ regarding
38 the petitions.

39 (2) Each recommendation made pursuant to paragraph (1) shall
40 be based on current scientific knowledge and a sound and open

1 scientific review and shall contain a finding whether a substance
2 should be added to, or deleted from, the regulated substance list,
3 or whether the state threshold quantity for a regulated substance
4 should be revised.

5 (g) The petition review by the Office of Environmental Health
6 Hazard Assessment shall take into consideration all of the
7 following factors:

8 (1) The severity of any acute adverse health effect associated
9 with an accidental release of the substance.

10 (2) The likelihood of an accidental release of the substance.

11 (3) The potential magnitude of human exposure to an accidental
12 release of the substance.

13 (4) The results of other preexisting evaluations of the substances
14 potential risks which take into account the factors specified in
15 paragraphs (1), (2), and (3), including, but not limited to, studies
16 or research undertaken by, or on behalf of, the Environmental
17 Protection Agency for the purpose of complying with paragraph
18 (3) of subsection (r) of Section 112 of the Clean Air Act (42 U.S.C.
19 Sec. 7412 (r)(3)).

20 (5) The likelihood of the substance being handled in this state.

21 (6) The accident history of the substance.

22 (h) Upon receipt of a recommendation made pursuant to
23 subdivision (f), the ~~office~~ *department* may add or remove a
24 substance or change an existing state threshold quantity as a
25 requirement for this article.

26 (i) In reviewing a petition under this section, the ~~office~~
27 *department* shall consider the views of administering agencies that
28 have indicated support or opposition to the petition.

29 *SEC. 24. Section 42100 of the Public Resources Code is*
30 *amended to read:*

31 42100. For purposes of this chapter, the following definitions
32 apply:

33 (a) "Agency" means the Business, Transportation and Housing
34 Agency.

35 (b) "Air board" means the State Air Resources Board.

36 (c) "Applicant" means a small business that is a metal plating
37 facility that produces hazardous waste and applies for financial
38 assistance pursuant to this chapter to reduce the generation of
39 hazardous waste.

1 (d) “Chrome plating” has the same meaning as “decorative
2 chromium electroplating” and “chromic acid anodizing” as defined
3 in the regulations specifying a hexavalent chromium toxic control
4 measure for chrome plating adopted by the air board and contained
5 in Section 93102 of Title 17 of the California Code of Regulations.

6 (e) “Department” means the Department of Toxic Substances
7 Control.

8 (f) “Emission reduction” has the same meaning as “airborne
9 toxic risk reduction measure,” as defined in subdivisions (a) and
10 (b) of Section 44390 of the Health and Safety Code.

11 (g) “Financial company” is defined pursuant to Section 14010
12 of the Corporations Code.

13 (h) “Financial Development Corporation (FDC)” means a
14 corporation formed under the California Small Business Financial
15 Development Corporations Law (Ch. 1 (commencing with Sec.
16 14000) Pt. 5, Div. 3, Corp. C.).

17 (i) “Green business program” means a program coordinated by
18 a local, state, or federal agency for the purposes of assisting and
19 recognizing businesses that are in compliance with all
20 environmental laws and regulations, and taking additional steps
21 to conserve natural resources and prevent pollution.

22 (j) “Metal plating facility” means an establishment primarily
23 engaged in all types of electroplating, plating, anodizing, coloring,
24 and finishing of metals and formed products for the trade. Metal
25 plating facility includes a chrome plating facility.

26 (k) “Model Shop Program” means the voluntary pollution
27 prevention program developed by the Department of Toxic
28 Substances Control with assistance from the Los Angeles City
29 Bureau of Sanitation, Sanitation Districts of Los Angeles County,
30 and the Metal Finishing Association of Southern California, to
31 assist the metal plating industry in identifying possible sources of
32 pollution and developing alternative business practices in order to
33 run cleaner, safer shops.

34 (l) “National Metal Finishing Strategic Goal Program” means
35 the voluntary program established through a partnership between
36 the United States Environmental Protection Agency and the metal
37 finishing industry that encourages companies to move beyond
38 environmental compliance by offering participants incentives,
39 resources, and means for removing regulatory and policy barriers
40 as they work to achieve specific environmental goals.

1 (m) “Pollution prevention” means the same as source reduction,
2 as defined by ~~subdivision (e) of Section 25244.14 of the Health~~
3 ~~and Safety Code.~~

4 (n) “Sensitive receptor” means a school, general acute care
5 hospital, long-term health care facility, and child day care facility.
6 For purposes of this subdivision, “general acute care hospital” has
7 the meaning provided by subdivision (a) of Section 1250 of the
8 Health and Safety Code, “long-term health care facility” has the
9 meaning provided by subdivision (a) of Section 1418 of the Health
10 and Safety Code, and “child day care facility” has the meaning
11 provided by Section 1596.750 of the Health and Safety Code.

12 (o) “Water board” means the State Water Resources Control
13 Board.

14 ~~SECTION 1. The Legislature intends to enact legislation to~~
15 ~~expand the hazardous waste source reduction program established~~
16 ~~by the Department of Toxic Substances Control pursuant to Article~~
17 ~~11.9 (commencing with Section 25244.12) of Chapter 6.5 of~~
18 ~~Division 20 of the Health and Safety Code, and foster more~~
19 ~~collaborative efforts to reduce the use of toxic or hazardous~~
20 ~~substances in the state, in order to protect the health and safety of~~
21 ~~Californians and our environment and to encourage the availability~~
22 ~~of safe, nontoxic consumer products by developing standards to~~
23 ~~allow those products to be certified as such by the state.~~

24 ~~SEC. 2. Section 25244.17.1 of the Health and Safety Code is~~
25 ~~amended to read:~~

26 ~~25244.17.1. The department shall establish a technical~~
27 ~~assistance and outreach program to promote implementation of~~
28 ~~model source reduction measures in priority industry categories.~~

29 ~~(a) Every two years, in the work plan required by Section~~
30 ~~25244.22, the department shall, in consultation with the advisory~~
31 ~~committee, select at least three priority categories of generators~~
32 ~~by SIC Code. At least one selected category of generators shall be~~
33 ~~taken from the list of categories previously selected by the~~
34 ~~department under Section 25244.18. At least one selected category~~
35 ~~of generators shall be a category that consists primarily of small~~
36 ~~businesses.~~

37 ~~(b) For each selected priority industry category, the department~~
38 ~~shall implement a cooperative source reduction technical assistance~~
39 ~~and outreach program to include the following elements:~~

1 ~~(1) The department shall use available resources, including~~
2 ~~reports prepared pursuant to paragraph (4) of subdivision (a) of~~
3 ~~Section 25244.18 and information on source reduction methods~~
4 ~~from federal, state, and local governments and industry associations~~
5 ~~and industry members, to identify a set of model source reduction~~
6 ~~measures for each industry category.~~

7 ~~(2) The department shall determine, with the assistance of the~~
8 ~~advisory committee, the most effective technical assistance and~~
9 ~~outreach methods to promote implementation of the model source~~
10 ~~reduction measures identified in paragraph (1).~~

11 ~~(3) The department shall develop a plan and schedule to~~
12 ~~implement the technical assistance and outreach measures before~~
13 ~~the next biennial work plan. The measures may include, but are~~
14 ~~not limited to, all of the following:~~

15 ~~(A) Holding, presenting at, or cosponsoring workshops,~~
16 ~~conferences, technology fairs, and other promotional events.~~

17 ~~(B) Developing and distributing educational materials, such as~~
18 ~~short descriptions of successful source reduction projects.~~

19 ~~(C) Developing checklists, training manuals, technical resource~~
20 ~~manuals and using those resources to train CUPAs, small business~~
21 ~~development corporations, business environmental assistance~~
22 ~~centers, and other regional and local government environmental~~
23 ~~programs.~~

24 ~~(D) Preparing and distributing resource lists, such as lists of~~
25 ~~vendors, consultants, or providers of financial assistance for source~~
26 ~~reduction projects.~~

27 ~~(E) Serving as an information clearinghouse to support telephone~~
28 ~~and onsite consultations with businesses and local governments.~~

29 ~~(4) For industry categories that include primarily large or~~
30 ~~technically complex businesses, the source reduction technical~~
31 ~~assistance and outreach program shall emphasize activities that~~
32 ~~involve direct communication between department staff and~~
33 ~~industry members. For these industry categories, the department~~
34 ~~shall communicate with representatives of 80 percent of the state's~~
35 ~~companies in the category. For categories that consist primarily~~
36 ~~of small businesses, the cooperative source reduction program~~
37 ~~shall emphasize providing industry-specific training and resources~~
38 ~~to CUPAs, small business development corporations, business~~
39 ~~environmental assistance centers, and other regional and local~~

1 government environmental programs for use in their inspections
2 and other direct communications with businesses.

3 (e) ~~While conducting activities under this section, the department~~
4 ~~shall coordinate its activities with appropriate industry and~~
5 ~~professional associations.~~

6 (d) ~~The department shall coordinate activities under this section~~
7 ~~with grants made under Section 25244.5.~~

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